

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

EWIN OSCAR MARTINEZ,

Plaintiff,

v.

CIVIL ACTION NO. 5:11-cv-00040

UNITED STATES OF AMERICA, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

The Court has reviewed the Plaintiff's Complaint (Document 1) filed on January 18, 2011.

By *Standing Order* (Document 2) entered on January 19, 2011, this action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636. On November 13, 2013, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 3) wherein it is recommended that this Court dismiss the Plaintiff's Complaint and remove this matter from the Court's docket. Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were due by December 2, 2013.

Neither party has timely filed objections to the Magistrate Judge's *Proposed Findings and Recommendation*. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984).

Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that the Plaintiff's Complaint (Document 1) be **DISMISSED** and that this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: December 6, 2013



IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA